

statutory rights under federal or state laws or regulations which union officials and representatives may have to enter upon mine property or enter the mines (Tr. 212; UMW Ex. 7).

Prior to April 15, 1986 James T. Jensen, an attorney practicing in Utah, served as general counsel for Savage Industries, the parent of Emery Mining Corporation (Tr. 219).

Witness Jensen prepared and implemented Emery's release and waiver form (Tr. 219). At the time of the Wilberg accident in 1984 Emery carried general liability insurance aggregating \$50,500,000. When these policies expired in June 1985 only \$30,500,000 in insurance coverage could be procured (Tr. 219-220J). The base policy was \$500,000, then a first level of excess coverage at \$10 million, then \$5.1 million and then another \$15 million.

In October or November the first \$10 million excess was cancelled. Hence, there was a gap in the coverage (Tr. 221). The company was able to find a \$1 million partial replacement policy (Tr. 221). In December 1985 the \$15.1 was cancelled. Emery's efforts at replacement were unsuccessful (Tr. 221).

The additional insurance coverage was not available at any cost and the \$1.5 million coverage was, in Emery's opinion, inadequate (Tr. 222).

After consultation it was determined that Emery would continue in business and also attempt to limit its exposure (Tr. 222-223).

Emery's employees were covered by workman's compensation and the areas of potential exposure involved claims by non-employees (Tr. 223). It was decided to use a release and waiver approach for those entering the company property. Existing and new forms were reviewed (Tr. 223-225; Contestant Ex. 3, 4). There were no discussions concerning the status of mine rescue terms from other companies, federal inspectors or UMW representatives in connection with the release and waiver forms (Tr. 224, 225, 230).

The Wilberg disaster generated claims and caused the company to focus on non-employee visitors. But lawsuits against Emery by non-employees were not an extensive part of the litigation and the total of such claims would be within Emery's \$1,500,000 coverage (Tr. 226-228).

The final release form was finally approved in the latter part of February 1986 (Tr. 231). In part, the policy came about after a vendor was killed in a Kaiser mine (Tr. 231).

Dave Lauriski, Emery's director of health and safety, testified that he has 16 years experience in the mining industry (Tr. 237, 238). His responsibilities include overall safety at the company's mines and the coordination of staff activities.